

Vandalism

Duxbury Clipper

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Judge Denies A.G.'s Proposed Injunction

By PAULA MAXWELL

A Plymouth Superior Court Judge has denied a civil rights complaint filed by Attorney General Tom Reilly's office seeking a preliminary injunction against three fifteen year old Duxbury girls accused of vandalizing a Jewish family's home.

In a decision released February 16th, Judge Patrick Brady denied the injunction, which would have prohibited the girls from further harassing the victims or anyone else.

Assistant Attorney General Suzanne Click Gilfix, representing the civil rights division, argued the state's case before

Brady on February 14. She was out of town this week and could not be reached for comment on the judge's ruling.

Richard Cole, assistant attorney general and chief of the civil rights division, said he was disappointed by the ruling. "We stand by our decision to bring this complaint and seek a preliminary injunction. We strongly disagree with the judge's decision as well as the basis for this decision."

Cole said his office felt the decision did not take into consideration the "terror" that was experienced by the victims.

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Judge Rejects A.G.'s Injunction Against Teenagers

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"This was not a spontaneous instance. There is evidenced that it was pre planned ..."

Cole said the state legislature in 1979 passed a civil rights statute to serve as a parallel to criminal law as an added deterrent.

"There is a strong belief that perpetrators of hate crimes are repeat offenders. If it is bias motivated there is a need to address the core of the issue that led to that behavior." Cole said any decision on an appeal would be discussed when Gilfix returns.

The girls were already under a "stay away" order issued at their bail hearing in December and soon face a pre trial conference to handle criminal charges in Plymouth juvenile court filed by the Plymouth County District Attorney's office.

Attorney Russell Hodgdon of Norwell, who represents one of the three girls who face charges, said he was pleased with Judge Brady's decision saying it was "beneficial" for

all involved. He said following the decision the Judge urged all parties to attempt to resolve any differences.

The teenagers are accused of shooting paintballs and throwing rocks at the home of a Jewish Duxbury Middle School teacher on Dec. 17. The alleged acts of vandalism earned hate crime status because of a note left in a mailbox which said "this is what happens when you don't decorate for Christmas."

Hodgdon said the girls have pleaded innocent to charges they violated the state's hate crime statute. He said the act was not motivated by "hate" or religious motives but was a stupid prank stemming from poor judgment. He said the girls are extremely sorry for what happened.

All three girls are charged with malicious damage to property over \$250, possession of an unlicensed (paintball) air gun, and larceny. Two of the three girls face charges under the state's hate crime statute.

(The order, which was issued by Plymouth Superior Court Judge Patrick F. Brady on February 16, is reprinted at right.)

Memorandum of Decision on Commonwealth's Motion for Preliminary Injunction

"It is undisputed that the three juvenile defendants committed acts of vandalism against the home of Mr. and Mrs. — on December, 17. The — 's are Jewish and there is evidence that the acts may have been motivated by anti-semitism. That the children intentionally damaged another person's home is troubling; that it may have been because of religious bigotry by the children is chilling;

Nevertheless, I am not persuaded that an injunction should issue. The court should not issue an injunction unless there is some reason to believe that the anti-semitic conduct or other civil rights violations, whether directed at the — or other citizens of the Commonwealth, is likely to recur. On the information provided to me the chances of that seem extremely remote. Serious criminal charges have been lodged against each defendant in the juvenile court. They are under court order to stay away from the —. Should the defendants again be arrested while free on personal recognizance, they will likely be held pending trial in a juvenile detention facility. Further hearings in the juvenile court are scheduled for February 28 and March 14.

Moreover, I am advised that the incident has received substantial publicity in Duxbury. Community opprobrium will serve as a further deterrent to similar violations of civil rights by these defendants.

It does not appear that any of the children have been arrested before, or have had any trouble with the law. The parents' submissions assure me that they are treating the matter with the utmost seriousness, and have initiated appropriate counseling and/or discipline.

The juvenile court is the appropriate forum. The injunction sought is unnecessary.

ORDER

The Commonwealth's application for a preliminary injunction is denied."